

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Vale	Team: Squad #6	CCRB Case #: 201801262	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/14/2018 11:34 PM	Location of Incident: 1700 Hylan Boulevard	Precinct: 122	18 Mo. SOL 8/14/2019	EO SOL 8/14/2019	
Date/Time CV Reported Thu, 02/15/2018 2:07 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 02/15/2018 2:07 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jacob Samuel	20031	959191	122 PCT
2. POF Samantha Dimarco	23808	963011	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Michele Godfrey	17440	921373	122 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jacob Samuel	Force: Police Officer Jacob Samuel struck § 87(2)(b) with an asp.	
B.POF Samantha Dimarco	Force: Police Officer Samantha Dimarco used pepper spray against § 87(2)(b)	
C.POM Jacob Samuel	Force: Police Officer Jacob Samuel used physical force against § 87(2)(b)	
D.POM Jacob Samuel	Discourtesy: Police Officer Jacob Samuel spoke discourteously to § 87(2)(b)	

Case Summary

On February 15, 2018, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board via the CCRB Call Processing System, on behalf of her brother § 87(2)(b)

On February 14, 2018, at approximately 11:34 p.m., PO Samuel Jacob and PO Samantha Dimarco of the 122nd Precinct were attempting to effect the arrest of § 87(2)(b) for violating Order of Protection #§ 87(2)(b) and Family Court Order § 87(2)(b). Officers followed § 87(2)(b) on foot from § 87(2)(b) in Staten Island, towards 1700 Hylan Boulevard. Officers issued § 87(2)(b) several orders to stop and he did not comply. As officers reached the parking lot of 1700 Hylan Boulevard, they attempted to grab § 87(2)(b)'s arms to place him in handcuffs. § 87(2)(b) refused to comply by flailing his arms and swinging at the officers. § 87(2)(b) punched PO Dimarco on her face and punched PO Samuel on his chin and chest area. PO Samuel removed his asp and struck § 87(2)(b) on the leg (**Allegation A: Force,** § 87(2)(g))

At this time, § 87(2)(b) and § 87(2)(b) became involved interfering with the arrest of § 87(2)(b). PO Samuel cornered § 87(2)(b) against a wall a few feet away while PO Dimarco attempted to have § 87(2)(b) move back. PO Dimarco walked towards § 87(2)(b) while removing her O.C. pepper spray. As § 87(2)(b) continued to resist, PO Dimarco sprayed him in the face with the OC pepper spray (**Allegation B: Force,** § 87(2)(g)). § 87(2)(b) continued to flail his arms, and a few seconds later, fell onto the ground. PO Samuel then punched § 87(2)(b) on the face (**Allegation C: Force,** § 87(2)(g)). PO Samuel called § 87(2)(b) a “piece of shit” and a “scumbag” (**Allegation D: Discourtesy,** § 87(2)(g)). Additional officers responded to the location and assisted in placing § 87(2)(b) in handcuffs. § 87(2)(b) was arrested and charged with § 87(2)(b)

Video Footage

Rear-security footage was obtained from the exterior cameras of 1700 Hylan Boulevard (BR01 – 02), and embedded Snag-it videos are attached below (BR03 – 04).

Findings and Recommendations

Allegation A – Force: Police Officer Jacob Samuel struck § 87(2)(b) with an asp.

Allegation B – Force: Police Officer Samantha Dimarco used pepper spray against § 87(2)(b)

Allegation C – Force: Police Officer Jacob Samuel used physical force against § 87(2)(b)

It is undisputed that PO Samuel and PO Dimarco used force to place § 87(2)(b) under arrest. Officers followed § 87(2)(b) on foot from § 87(2)(b) in Staten Island, towards 1700 Hylan Boulevard, in order to arrest him for violation of an order of protection. § 87(2)(b) was instructed several times to stop and he did not comply. Officers attempted to grab § 87(2)(b)'s arms in order to place him in handcuffs. § 87(2)(b) refused to comply by flailing and pulling his arms away while backing away from the officers. PO Dimarco discharged her O.C. spray at § 87(2)(b) landing in his eyes. § 87(2)(b) remained standing for a few seconds before going to the ground. PO Samuel used hand strikes on

§ 87(2)(b) as he lay on the ground. Additional officers responded to the location and assisted in placing § 87(2)(b) in handcuffs.

§ 87(2)(b) acknowledged that he did not comply with the officers by walking away from them (BR05). § 87(2)(b) was informed that he would be arrested without being provided a reason as to why. He then proceeded to swipe his arms and pull away from the officers. He denied attempting to or actually hitting, striking, and pushing the officers and denied pointing his closed fists at them. He denied that his sister, § 87(2)(b) became physically involved in this incident and did not allege that PO Samuel used an asp against him. PO Dimarco discharged her O.C. pepper spray at him which temporarily blinded him. PO Samuel instructed § 87(2)(b) to sit on the ground before punching him on the right side of his jaw. As § 87(2)(b) sat on the ground, PO Samuel again punched him on the face causing him to bleed from his mouth.

§ 87(2)(b) provided a brief statement before becoming uncooperative with the investigation (BR06). She stated that § 87(2)(b) had a drug habit and may have gotten into an altercation with his wife prior to the incident. Later on, officers pursued § 87(2)(b) and they walked ahead of her. By the time she caught up with § 87(2)(b) she observed the officers “beating” him. She acknowledged to pulling PO Dimarco away from § 87(2)(b) as the officers were repeatedly kicking and punching him.

The investigation was unable to obtain a statement from § 87(2)(b) a witness to this incident (BR07).

One video obtained for this incident shows PO Dimarco holding onto § 87(2)(b)'s right arm (BR03). § 87(2)(b) walks backwards away from PO Samuel who is swinging an asp towards § 87(2)(b)'s left leg. PO Dimarco places her left arm around § 87(2)(b)'s right shoulder and neck area to bring him to the ground. § 87(2)(b) then uses his right arm and slams PO Dimarco's entire body to the ground. As PO Dimarco stands up, PO Samuel continues to swing his asp at § 87(2)(b)'s right leg and thigh area. § 87(2)(b)

(g)



201801262 Video 1.mp4

A second video obtained for this incident shows PO Samuel and PO Dimarco grabbing onto § 87(2)(b)'s arms as he walks backwards (BR04). § 87(2)(b) swings his arms away and releases the officers' grip. At this time, § 87(2)(b) gets in the middle of § 87(2)(b) and the officers. She pushes PO Samuel away while PO Dimarco attempts to pull her back. PO Samuel holds onto § 87(2)(b)'s right arm who then backs up into a wall. § 87(2)(b) continues to pull on PO Samuel. PO Dimarco talks with § 87(2)(b) before guiding her away from § 87(2)(b) and PO Samuel. § 87(2)(b) walks towards and stands in close proximity of PO Samuel and § 87(2)(b) while speaking to § 87(2)(b). § 87(2)(b) walks away from PO Dimarco towards § 87(2)(b) and PO Samuel. A few seconds later, PO Samuel pulls out her O.C. pepper spray and discharges it at § 87(2)(b) who stands for a few minutes before tripping and falling onto the ground. PO Samuel leans over § 87(2)(b) and uses hand strikes on § 87(2)(b)'s upper body while PO Dimarco attempts to move § 87(2)(b) back. PO Samuel remains leaning over § 87(2)(b).

§ 87(2)(b) before additional units respond to the location and assist in placing him in handcuffs. The second video could not be attached to this report as it was a large file.

PO Samuel stated that as he and PO Dimarco attempted to grab hold of § 87(2)(b)'s arms, he pushed the officers away and swung at them (BR08). As PO Dimarco was going over the radio, § 87(2)(b) punched her on the face causing her to fall onto the ground while dropping her radio. § 87(2)(b) then punched PO Samuel on the chin causing him to stumble backwards. PO Samuel again grabbed onto § 87(2)(b)'s arm before deploying his asp to subdue § 87(2)(b) who was actively resisting. PO Samuel struck § 87(2)(b) 3 – 4 times between his lower leg and knee area. PO Samuel used the asp to prevent § 87(2)(b) from further fighting the officers, to gain compliance, and for officers' safety. However, this was not effective. PO Samuel put away his asp and continued to grab onto § 87(2)(b). PO Dimarco then deployed her O.C. pepper spray on § 87(2)(b). PO Samuel brought § 87(2)(b) to the ground who then tucked his right arm underneath his stomach. PO Samuel hit § 87(2)(b) with open hand strikes in an attempt to get § 87(2)(b) to give up his right arm as well as the fact that he did not have an opportunity to search § 87(2)(b) prior to the struggle and did not know if § 87(2)(b) was hiding something in his right hand. PO Samuel did not recall if he used a closed fist. PO Samuel remained on top of § 87(2)(b) until back up officers arrived to assist him.

PO Dimarco stated that as she held onto § 87(2)(b)'s arm he threw her onto the ground (BR09). As she attempted to stand up, § 87(2)(b) punched her on her right cheek. PO Dimarco was informed later on that § 87(2)(b) had also struck PO Samuel. § 87(2)(b) swung at the officers before pushing them away. At some point, PO Samuel released his asp. However, PO Dimarco did not see PO Samuel hit § 87(2)(b) with the asp. PO Dimarco stated that since the asp was not effective and that § 87(2)(b) continued to fight with the officers, she decided to use the next tool on her tool belt which was her O.C. pepper spray. She added that she was not issued a taser on the incident date and did not want to resort to her gun. PO Dimarco deployed her O.C. pepper spray at § 87(2)(b) who eventually tripped and fell onto the ground. PO Samuel positioned himself on top of § 87(2)(b) until backup officers arrived.

An individual is considered to be “actively resisting” when he or she utilizes physically evasive movements to defeat a member of the service’s attempt to control, including bracing, tensing, and pushing. Patrol Guide Procedure 221-02 (BR10).

If the use of de-escalation and conflict negotiations techniques fail to persuade an uncooperative subject to cooperate, the member of the service present should, if appropriate and consistent with officer safety advise the offender that physical force or other devices (e.g., O.C. pepper spray, shield, baton/asp, etc.) will be used to handcuff/ restrain him before applying such force, if appropriate. Members of the service should apply no more than the reasonable force necessary to gain control. Patrol Guide Procedure 221-02 (BR10).

Oleoresin Capsicum (O.C.) pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. O.C. pepper spray may be used in arrest or custodial restraint situations where physical presence and/ or verbal commands have not been, or would not be, effective in overcoming physical resistance. Patrol Guide Procedure 221-07 (BR11).

§ 87(2)(g)

§ 87(2)(g) [REDACTED]

§ 87(2)(g)

§ 87(2)(b)

PO Samuel denied calling § 87(2)(b)

PO Dimarco did not hear PO Samuel or any other officer refer to § 87(2)(b)

As previously stated, § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

○ § 87(2)(b) [REDACTED]

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- § 87(2)(b) [REDACTED] has been a party to one CCRB complaint and has been named a victim in five allegations (BR13).
 - § 87(2)(b) [REDACTED]
- PO Samuels has been a member-of-service for three years and this is the first CCRB complaint to which he has been a subject (see officer history).
- PO Dimarco has been a member-of-service for one year and this is the first CCRB complaint to which she has been a subject (see officer history).

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to § 87(2)(b) [REDACTED]'s arrest.
- As of March 22, 2018, the New York City Officer of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR14).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [REDACTED]

